

Serial No. 10/821,595Docket No. 117-P-1345USD4**Remarks**

Claims 1, 3-5, 12, 19, 20 and 24 have been amended as shown above. Antecedent basis for the amendments may be found in the specification at, e.g., page 5, line 7 through page 6, line 31 and page 8, lines 14-27. Following entry of this amendment, claims 1, 3-27, 36 and 37 will be pending in this application.

**Rejection of Claims 1 and 3-19 under 35 U.S.C. §112**

Claims 1 and 3-19 were rejected under 35 U.S.C. §112, second paragraph as being indefinite on grounds that:

*"Independent claim 1 recites that the overcoat is a "two-part curable overcoat". However, it is unclear what is meant by such a recitation. Is the overcoat already dried and cured? In which case, it is not "two-part curable". Or is the overcoat still wet and present as two distinct and uncured materials? In which case, how does one keep the intermediate coating and overcoat in distinct layers and prevent the mixing of the intermediate and overcoat layers? Such ambiguities arise given the Applicants arguments (last paragraph of page 6 of the arguments presented January 5, 2005) that "two-part curable compositions" cure shortly after the two parts are mixed together. In light of the Specification and for purposes of examination, the Examiner has treated "two-part curable" in claims 1-19 to imply an already dried and cured overcoat layer. Applicants have argued that the claim language recites a overcoat that has been mixed but has not yet cured or hardened however that is not clear from the claim language and hence appropriate amendment is required.*

*"Furthermore, independent claim 1 has been amended to recite that the topcoat is a "mixed two-part curable composition". It is unclear what is meant by "mixed"-what is the composition mixed with in this instance?*

*"Independent claims 1 and 20 have been further amended to recite that the "topcoat is "sufficiently strip agent permeable" when "subjected to the action of a*

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*suitable strip agent". What is a suitable strip agent? How does one skilled in the art determine what constitutes a "suitable" strip agent?" (see the Final Rejection at pages 2-3, numbered paragraph 2).*

Reconsideration is requested in view of the above amendments and the following further explanation.

The rejected claims recite an "overcoat" rather than a "topcoat".

The recited intermediate coating and overcoat may be applied in distinct layers by following, for example, the steps explained at page 8, lines 16-26 and by using techniques that will be familiar to those skilled in the art. The intermediate coating could be applied and allowed to dry. As soon as the intermediate coating has dried to the touch, the two-part overcoat components could be mixed and applied while the overcoat is in a fluid state and before it hardens or cures. This approach can prevent mixing of the intermediate coating and overcoat.

The recited "mixed" two part curable composition is a mixture of the two parts with one another to form a composition that cures after the two parts are mixed. Claims 1 and 20 have been amended to clarify this aspect. Persons having ordinary skill in the art will readily understand the term "mixed" as recited in the claims.

The word "suitable" has been removed from the rejected claims. The specification discusses a variety of exemplary strip agents (see e.g., page 7, line 16 through page 8, line 8 and page 10, line 18 through page 11, line 24), their use (see e.g., page 9, lines 4-20) and their evaluation (see e.g., page 11, line 27 through page 12, line 21). This will readily enable a person having ordinary skill in the art to select a strip agent.

Applicants accordingly request withdrawal of the 35 U.S.C. §112, second paragraph rejection of claims 1 and 3-19.

**Rejection of Claims 1, 3-27, 36 and 37 under 35 U.S.C. §102(b)**

Claims 1, 3-27, 36 and 37 were rejected under 35 U.S.C. §102(b) as being anticipated by Published PCT Application No. WO 98/11168 (Hamrock et al.), on grounds that:

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*"Hamrock et al. disclose a floor finishing system comprising a radiation curable composition and a primer composition wherein the primer composition is coatable over a substrate and the radiation curable composition is coatable thereon (Page 6, lines 25-30). The radiation curable coating comprises a polyfunctional isocyanurate and a hydroxyalkyl acrylate (Page 4, lines 21-30). A preferred monomer is shown on Page 5 and contains an aromatic group (thus meeting the limitations that the topcoat composition comprises an acrylated urethane or an aromatic urethane). The cured, coatable composition is readily strippable from the substrate when the latex primer is present (Page 7, lines 1-3). In applying the coating compositions of the invention to a suitable substrate, it is preferred that the composition be applied in a manner which creates a coating no greater than about 1.3 mm in thickness (Page 18, lines 29-31). With regards to the stripability rating limitations recited in claims 7 and 16, the Examiner takes the position that such property limitations must be inherently present in the coatings taught by Hamrock et al. given that the chemical composition of the coatings and the structure of the laminate as taught by Hamrock et al. and as claimed in the instant application is identical. All limitations of the claimed invention are either disclosed or inherent in the above reference." (see the Final Rejection at pages 3-4, numbered paragraph 3)*

and on the further grounds that:

*"Applicants traverse the rejection of claims 1, 3-27, 36, and 37 under 35 U.S.C. 102(b) as being anticipated by Hamrock et al. (WO 98/11168) and submit that claim 1 addresses the coated floor after the topcoat has been applied and before it cures and hardens. However, the Examiner would like to point out that the language recited in independent claim 1 does not preclude the topcoat from being cured and hardened and hence claim 1 recites a coated floor wherein the topcoat is already cured/hardened. Furthermore, in response to the Examiner's position that the use of a two-part composition does not impart distinctive structural characteristics to the final product, Applicants direct the Examiner's attention to the Declaration filed by Robert*

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*D. P. Hei under 37 CFR 1.132 and state that the Declaration shows that the vinyl composition flooring tiles coated with a single layer of PADLOCK acrylic polymer floor finish and over coated with a two-component aqueous polyurethane composition exhibited better leveling and hardened finish appearance than the other comparative samples. However, the Examiner would like to point out that even if she agreed that the Hei Declaration shows that with a single layer of PADLOCK acrylic polymer floor finish and over coated with a two-component aqueous polyurethane composition exhibited better leveling and hardened finish appearance that is not the invention being claimed in the instant application. None of the claims are directed to an invention commensurate in scope with the showing in the Hei Declaration or the Specification. The Examiner invites the Applicants to amend the claims to recite an invention commensurate in scope with the showing in the Hei Declaration and the Specification. A claim reciting a coated floor with a strippable intermediate coating and a mixed two part curable composition is simply not the same as a vinyl floor tile coated with a single layer of PADLOCK acrylic polymer floor finish and over coated with a two-component aqueous polyurethane composition.” (see the Final Rejection at page 8, numbered paragraph 10).*

Reconsideration is requested. Amended claim 1 recites a coated resilient floor with a mixed two-part curable or hardenable overcoat which is atop an intermediate layer and which “will cure or harden after the two parts are mixed and applied”. Such an overcoat has not yet cured or hardened and may in the interest of brevity be referred to in the remainder of this amendment as a “two-part overcoat”.

Hamrock et al. do not employ a two-part overcoat. Hamrock et al. employ a one-part, 100% solids UV curable overcoat.

Applicants have amended the rejected claims generally along the lines recommended by the Examiner, but with some differences to avoid unfairly narrowing the claims:

Applicants’ rejected claims recite “resilient flooring” rather than “vinyl floor tile” as recommended in the Final Rejection. Applicants note in this regard that resilient floors

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generally are less durable than non-resilient floors and thus are more easily damaged by aggressive removal techniques such as floor sanding or aggressive burnishing (see e.g., page 1, lines 19-20). A person having ordinary skill in the art would readily understand from applicants' specification and from the Hei Declaration that the disclosed coatings could provide a strippable floor finish not only on vinyl floor tiles but also on other resilient floors such as the "vinyl flooring, vinyl composite flooring, and synthetic sports floors" discussed at page 5, lines 7-9 of the specification.

Applicants' amended claims refer to an "acrylic" intermediate coating (which may be made from one or many layers) rather than a "single layer of PADLOCK acrylic polymer floor finish" as recommended in the Final Rejection. A person having ordinary skill in the art would readily understand from applicants' specification and from the Hei Declaration that the disclosed coatings could provide a strippable floor finish using not only a single layer of PADLOCK acrylic adhesive but also using more than one layer of any of a variety of acrylic polymers including those discussed or exemplified at page 5, line 12 through page 6, line 10, page 8, lines 18-19 and page 9, lines 29-30.

Applicants' amended claims refer to a "mixed two-part curable or hardenable urethane or acrylate overcoat" rather than a "two-component aqueous polyurethane composition" as recommended in the Final Rejection. A person having ordinary skill in the art would readily understand from applicants' specification and from the Hei Declaration that the disclosed overcoats could provide a strippable floor finish not only by using a two-component aqueous polyurethane composition but also by using a mixed two-part curable or hardenable urethane or acrylate overcoat including those discussed or exemplified at page 6, line 11 through page 7, line 15 and in the Hei Declaration.

Applicants accordingly request withdrawal of the 35 U.S.C. §102(b) rejection of claims 1, 3-27, 36 and 37 as being anticipated by Hamrock et al.

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**Rejection of Claims 1, 3-27, 36 and 37 under****35 U.S.C. §102(b) and Lauer et al.**

Claims 1, 3-27, 36 and 37 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,932,350 (Lauer et al.), on grounds that:

*"Lauer et al. (US 5,932,350) disclose a method for tandem coating substrate, such as cellulosic substrates, with both highly crosslinked thermoset coatings and aqueous based coatings (Column 1, lines 1-9). The substrate may be coated first with the cured coating (ii) and then the highly crosslinked coating (I) which is preferably formed from a thermoset material that is UV curable and which before cure may be a high solids composition or a waterborne composition (Column 2, lines 31-51). The UV curable coatings, after exposure to UV radiation, produce highly crosslinked coatings. It has proved difficult to adhered water-based topcoats without the use of an intermediate coating (Column 3, lines 1-6). With regards to the stripability rating limitations recited in claims 7 and 16, the Examiner takes the position that such propel limitations must be inherently present in the coatings taught by Lauer et al. given that the chemical composition of the coatings and the structure of the laminate as taught by Lauer et al. and as claimed in the instant application is identical. All limitations of the claimed invention are either disclosed or inherent in the above reference." (See the Final Rejection at pages 4-5, numbered paragraph 4).*

and on the further grounds that:

*"Applicants traverse the rejection of Claims 1, 3-27, 36, and 37 under 35 U.S.C. 102(b) as being anticipated by Lauer et al. (US 5,932,350) and state that Lauer's coatings are "highly cross linked" and are "carbonyl functional" and that Lauer does not state that the coatings "can be stripped without damaging the floors". First, the Examiner would again like to point out that the language of the independent claim does not preclude the topcoat from being "highly cross linked" and/or "carbonyl functional". Second, Lauer's coatings must inherently be strippable "without damaging the floors" given that Lauer teaches the same coatings as claimed*

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by the instant Applicants. Applicants further state that none of Lauer's working examples show a coated floor of the claimed invention. However, "the use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain". *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989). See also *Celeritas Technologies Ltd. v. Rockwell International Corp.*, 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir. 1998). Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). "A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." *In re Gurley*, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994)." (See the Final Rejection at pages 9-10).

Reconsideration is requested. When applicants said that:

*Lauer et al.*'s coating (i) is said to be "highly crosslinked" and "preferably formed from a thermoset material" (see e.g., col. 2, lines 46-47) but *Lauer et al.* do not say that coating (i) "can be stripped without damaging the floor".

and that:

*Lauer et al.*'s waterbased or aqueous coating (ii) is said to be "carbonyl functional" (see e.g., col. 3, lines 9-16) and "preferably a thermoplastic or substantially uncrosslinked copolymer when it is applied (in its uncured state) to the substrate" (see e.g., col. 4, lines 38-39) but *Lauer et al.* do not say that the oven-dried coating (ii) "can be stripped without damaging the floor".

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applicants were not saying that their own overcoat (once cured or hardened) could not be "highly crosslinked" or that their own intermediate coating could not be "carboxyl functional". Applicants were merely describing Lauer et al.

Applicants do not agree that Lauer et al.'s coatings "must inherently be strippable "without damaging the floors"" as asserted in the Final Rejection. Lauer et al. say that their coatings are "highly crosslinked" and they cure them using a UV line processor. A person having ordinary skill in the art would expect that such a coating could not be stripped without damaging flooring, especially resilient flooring (see e.g., page 1, lines 14-22).

Applicants agree that "A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments", but note that the recited standard would be applicable to a 35 U.S.C. §103 rather than a 35 U.S.C. §102 rejection. In addition, this standard must be applied fairly, including proper application of the terms "reasonably suggested" and "the art". Applicants do not agree that Lauer et al. would be consulted by a person having ordinary skill in the relevant art. The relevant art does not involve all coating compositions or all coating applications. A person having ordinary skill in the relevant art would be interested in applying a finish that "can be stripped" to a "resilient floor". Lauer et al. has nothing to do with strippable finishes or floors, let alone resilient floors.

The rejected claims do not merely recite two coatings. Claim 1 recites a combination of resilient flooring, a strippable intermediate acrylic coating atop the flooring, and a curable or hardenable urethane or acrylate overcoat atop the intermediate coating, and further recites that the overcoat after drying or hardening "is less strippable and more wear-resistant than the intermediate coating and is sufficiently strip agent-permeable so that when the overcoat is subjected to the action of the strip agent the overcoat and intermediate coating can be stripped without damaging the flooring". Lauer et al. say nothing regarding the relative strippability or durability of their coatings and nothing regarding strip agents or flooring damage during stripping.



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Lauer et al discuss many coating materials but do not provide any basis for selecting the combination recited in applicants' rejected claims. For example, all of Lauer et al.'s working examples (and Lauer et al.'s preferred application mode, see col. 5, lines 57-62) involve applying two layers of Lauer et al.'s "high solids" or "highly crosslinked" coating (i) onto hardboard, sanding, UV curing and applying a layer of Lauer et al.'s waterbased coating (ii). Lauer et al. say that the highly crosslinked coating seals the hardboard surface and that the waterbased coating provides a decorative layer (see e.g., col. 1, lines 11-24 and col. 5, lines 57-65). Lauer et al.'s working examples and preferred application mode do not involve a resilient floor, do not involve application of coatings in the order recited in the rejected claims, and do not disclose application atop an intermediate coating of a "mixed two-part curable or hardenable urethane or acrylate overcoat" which after it cures or hardens "is less strippable and more sear-resistant than the intermediate coating". Lauer et al.'s sanding step would be undesirable and would not normally be employed on (and could damage) resilient flooring. Lauer et al.'s working examples and preferred application mode could not fairly be said to "reasonably suggest" the coated resilient floor recited in the rejected claims and could not fairly be said to be part of the relevant art.

As previously noted Lauer et al. also say that in another embodiment:

*"the cellulosic material is a paper material such as may be typically used in a printing or packaging application. Here, the waterbased coating (ii) may first be applied to the substrate, such as in the form of an ink, and then the cured waterbased coating (ii) and substrate are both coated with the highly crosslinked coating".*

"Printing or packaging" has nothing to do with resilient flooring and does not show or suggest the coated resilient floor of the rejected claims. Lauer et al.'s printing or packaging embodiment could not fairly be said to "reasonably suggest" the coated resilient floor recited in the rejected claims and could not fairly be said to be part of the relevant art.

Applicants accordingly request withdrawal of the 35 U.S.C. §102(b) rejection of claims 1, 3-27, 36 and 37 as being anticipated by Lauer et al.

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**Rejection of Claims 1, 3-27, 36 and 37 under****35 U.S.C. §102(b) and Wang et al.**

Claims 1, 3-27, 36 and 37 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,494,707 (Wang et al.), on grounds that:

*"Wang et al. disclose a resilient floor covering comprising of a resilient support surface and a resilient wear surface adhered to said support surface and comprising an underlying wear layer-based coat and an overlying wear layer top coat adhered to said wear layer basecoat (Column 3, lines 61-68). The wear layer top coat is a hard thermoset UV curable blend of acrylates (Column 4, lines 7-10). The wear layer basecoat has a thickness of 0.7 to 3.0 mils and the wear layer top coat has a thickness of 0.1 to 0.5 mils (Column 8, lines 35-45). Conventional substrate layer comprises materials typical of substrate layers found in the flooring art and include vinyl compositions (Column 9, lines 59-66). With regards to the stripability rating limitations recited in claims 7 and 16, the Examiner takes the position that such property limitations must be inherently present in the coatings taught by Wang et al. given that the chemical composition of the coatings and the structure of the laminate as taught by Wang et al. and as claimed in the instant application is identical. All limitations of the claimed invention are either disclosed or inherent in the above reference." (see the Final Rejection at page 5, numbered paragraph 5).*

and on the further grounds that:

*"Applicants traverse the rejection of Claims 1, 3-27, 36, and 37 under 35 U.S.C. 102(b) as being anticipated by Wang et al. (US 5,494,707) and state that Wang does not teach that the floor can be "be stripped without damaging the floors". However, the Examiner takes the position that Wang's coatings must inherently be stripable "without damaging the floors" given that Wang teaches the same coatings as claimed by the instant Applicants." (See the Final Rejection at page 8).*

Reconsideration is requested. Wang et al.'s wear layer top coats appear to be 100% solids UV curable materials (see e.g., col. 9, lines 14-38, Example 5 at col. 16, lines 42-49 and Example

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6 at col. 16, lines 64-67). They are not a two-part composition and do not anticipate the rejected claims.

Applicants accordingly request withdrawal of the 35 U.S.C. §102(b) rejection of claims 1, 3-27, 36 and 37 as being anticipated by Wang et al.

**Rejection of claim 21 under 35 U.S.C. §103(a) over**

**Hamrock et al. in view of Koreltz et al.**

Claim 21 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hamrock et al. in view of Published PCT Application No. WO 94/22965 (Koreltz et al.), on grounds that:

*"Hamrock et al., as discussed above, do not state that their floor finishing system further comprises a strip agent.*

*"However, Koreltz et al. disclose compositions used to strip coatings such as floor finishes and/or greasy residues from surfaces such as floors and the composition is effective in removing multiple coatings comprising urethane/acrylic polymers (Page 1, lines 5-9 and Page 3, lines 35-37).*

*"Accordingly, it would have been obvious to one having ordinary skill in the art to add the strip composition disclosed by Koreltz et al. to the floor finishing system disclosed by Koreltz et al. given that such compositions can be used to remove multiple coatings." (see the Final Rejection at page 6, numbered paragraph 6).*

and on the further grounds that:

*"Applicants again direct the Examiner to the Hei Declaration to show that Hamrock or Wang should not be combined with Koreltz. However, again the Examiner would like to point out that the claims of the instant application are invention commensurate in scope with the showing in the Hei Declaration or the Specification." (see the Final Rejection at page 11).*

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Reconsideration is requested. Applicants request clarification regarding the last sentence of this rejection. The reference to "the floor finishing system disclosed by Koreltz et al." appears to be an error.

Paragraphs 5-8 in the Hei Declaration showed that Koreltz et al.'s stripper could remove a "standard", easily stripped floor finish such as CITATION sealer/finish but could not remove UV-crosslinked Finish 4. Moreover, applicants' specification says that:

*"UV cured floor finishes generally are not regarded as being removable using conventional chemical floor stripping agents. Instead, more aggressive removal techniques such as floor sanding or aggressive burnishing may be employed, thereby leading to removal of a portion of the underlying floor surface." (see page 1, lines 18-20)*

The Final Rejection has not provided a proper basis for ignoring these statements. A person having ordinary skill in the resilient floor finish art would not conclude from Koreltz et al.'s tests using CITATION sealant/finish that the Koreltz et al. stripping agents would remove Hamrock et al.'s UV curable 100% solids finish, and would not combine Hamrock et al. and Koreltz et al. as proposed in the Office Action.

Applicants accordingly request withdrawal of the 35 U.S.C. §103 (a) rejection of claim 21 as being unpatentable over Hamrock et al. in view of Koreltz et al.

**Rejection of claim 21 under 35 U.S.C. §103(a) over**

**Wang et al. in view of Koreltz et al.**

Claim 21 was rejected under 35 U.S.C. §103(a) as being unpatentable over Wang et al. in view of Koreltz et al., on grounds that:

*"Wang et al., as discussed above, do not state that their floor finishing system further comprises a strip agent.*

*"However, Koreltz et al. disclose compositions used to strip coatings such as floor finishes and/or greasy residues from surfaces such as floors and the composition*

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*is effective in removing multiple coatings comprising urethane/acrylic polymers (Page 1, lines 5-9 and Page 3, lines 35-37).*

*"Accordingly, it would have been obvious to one having ordinary skill in the art to add the strip composition disclosed by Koreltz et al. to the floor finishing system disclosed by Wang et al. given that such compositions can be used to remove multiple coatings." (see the Final Rejection at pages 6-7, numbered paragraph 7).*

and on the further grounds that:

*"Applicants again direct the Examiner to the Hei Declaration to show that Hamrock or Wang should not be combined with Koreltz. However, again the Examiner would like to point out that the claims of the instant application are invention commensurate in scope with the showing in the Hei Declaration or the Specification." (see the Final Rejection at page 11).*

Reconsideration is requested. Wang et al.'s wear layer top coats appear to be one-part 100% solids UV curable finishes. As shown in the Hei Declaration, Koreltz et al.'s stripper would not remove such finishes. As stated in applicants' specification, UV cured floor finishes generally are not regarded as being removable using conventional chemical floor stripping agents. A person having ordinary skill in the resilient floor finish art would not conclude from Koreltz et al.'s tests using CITATION sealant/finish that the Koreltz et al. stripping agents would remove Wang et al.'s 100% solids UV curable wear layer top coat, and would not combine Wang et al. and Koreltz et al. as proposed in the Office Action.

Applicants accordingly request withdrawal of the 35 U.S.C. §103 (a) rejection of claim 21 as being unpatentable over Wang et al. in view of Koreltz et al.

#### **Double Patenting Rejections**

Claims 1, 3-8 and 11-18 were provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1-8 and 11-17 of copending Application No. 10/821,120, on grounds that:

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*"Lastly, with regards to the double patenting rejection, the Examiner would like to point out that where the claims of an application are substantively the same as those of a first patent (or another application), they are barred under 35 U.S.C. 101 - the statutory basis for a double patenting rejection. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101." (see the Final Rejection at page 10).*

Reconsideration is requested. The claims in the two applications are not identical. Claims 1, 3-8 and 11-17 in the '120 application (claim 2 has been cancelled) recite a coated resilient floor with a mixed two-part curable or hardenable urethane or acrylate "topcoat" atop a strippable intermediate coating. Claims 1, 3-8 and 11-18 in the present application recite a coated resilient floor with a mixed two-part curable or hardenable urethane or acrylate "overcoat" atop a strippable intermediate coating and which after the overcoat cures or hardens is also said to be "adhered to" the intermediate coating. Page 3, lines 25-27 of the present application state that:

*"As used in connection with this invention, an overcoat is regarded as being "adhered" to an intermediate coating when the overcoat exhibits at least 50% adhesion when evaluated using the Gardner Adhesion Test described in Example 4."*

Since the cited '120 application claims do not require that the topcoat be "adhered to" the intermediate coating, the '120 application claims encompass embodiments that would not fall within the literal scope of the present application's claims (for example, embodiments for which the Gardner Adhesion Test value is not at least 50%). Thus the cited '120 application claims and the rejected present application's claims do not recite the same invention (see MPEP §804 II. A.). Applicants accordingly request withdrawal of the double patenting rejection of claims 1, 3-8 and 11-18 under 35 U.S.C. §101.

In addition, claims 20-27 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20-27 and 41-51 of copending Application No. 09/560,170, on grounds that:

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*"Although the conflicting claims are not identical, they are not patentably distinct from each other because the additional limitations recited in claims 20-27 and 41 -51 of copending Application No. 09/560,170 are inherent in the laminate finish kit of the instantly claimed invention."* (see the Final Rejection at page 8, numbered paragraph 9).

Applicants are willing to submit a suitable terminal disclaimer when rejected claims 20-27 in the present application and claims 20-27 and 41-51 in the '170 application are allowed.

### Conclusion

Applicants have made an earnest effort to address the rejections. Clarification has been provided regarding the recited mixed two-part overcoat and the objected-to word "suitable" has been removed from claims 1 and 20. Applicants have also amended the rejected claims generally along the lines recommended by the Examiner, but with some differences to avoid unfairly narrowing the claims.

Hamrock et al. uses a one-part 100% solids radiation curable overcoat and does not anticipate the rejected claims.

Lauer et al. does not show and could not fairly be said to "reasonably suggest" a coated resilient floor as recited in the rejected claims and could not fairly be said to be part of the relevant art.

Wang et al.'s wear layer top coats appear to be 100% solids UV curable materials, and not a two-part overcoat.

A person having ordinary skill in the resilient floor finish art would not conclude from Koreltz et al.'s tests using CITATION sealant/finish that the Koreltz et al. stripping agents would remove Holman et al.'s chemically resistant finish, and such a person would not combine Hamrock et al. and Koreltz et al. as proposed in the Office Action. Also, such a person would not conclude from Koreltz et al.'s tests that the Koreltz et al. stripping agents would remove Wang et al.'s 100% solids UV curable wear layer top coats, and would not combine Wang et al. and Koreltz et al. as proposed in the Office Action.

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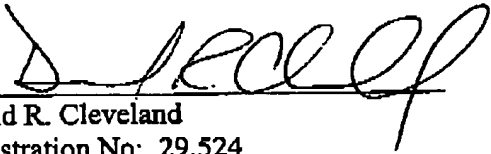
Claims 1, 3-8 and 11-17 in the '120 application do not recite the same invention as the present application's claims 1, 3-8 and 11-18. Applicants are willing to submit a suitable terminal disclaimer when rejected claims 20-27 in the present application and claims 20-27 and 41-51 in the '170 application are allowed.

Withdrawal of the Final Rejection and passage of the application to the issue branch are requested. The Examiner is encouraged to telephone the undersigned attorney at 612-331-7412 to discuss any unresolved questions regarding this application.

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